

## **MINUTES**

### **MONTANA SENATE 60th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN JIM ELLIOTT**, on March 26, 2007 at 8:00 A.M., in Room 405 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. Jim Elliott, Chairman (D)  
Sen. Jerry W. Black (R)  
Sen. Kelly Gebhardt (R)  
Sen. Dan Harrington (D)  
Sen. Christine Kaufmann (D)  
Sen. Sam Kitzenberg (D)  
Sen. Jim Peterson (R)  
Sen. Bob Story Jr. (R)

##### **Members Excused:**

Sen. Trudi Schmidt (D)  
Sen. Jeff Essmann (R)  
Sen. Kim Gillan (D)

**Members Absent:** None.

**Staff Present:** Lee Heiman, Legislative Branch  
Lois O'Connor, Committee Secretary

**Audio Committees:** These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

##### **Committee Business Summary:**

Hearing & Date Posted: SB 120, 3/20/2007  
Executive Action: SB 61, SB 268, SB 210, SB 400, SB  
552, SB 356, SB 375, SB 281, SB  
436, SB 559, SB 550

00:02:37

**HEARING ON SB 120**

**Opening Statement by Sponsor:**

00:06:28 SEN. JIM ELLIOTT (D), SD 7, opened the hearing on SB 120, Revise tax treatment of income and dividends of real estate investment trusts.

[EXHIBIT\(tas64a01\)](#)

[EXHIBIT\(tas64a02\)](#)

**Proponents' Testimony:**

00:24:56 Dan Bucks, Director, Montana Department of Revenue (DOR)

[EXHIBIT\(tas64a03\)](#)

[EXHIBIT\(tas64a04\)](#)

[EXHIBIT\(tas64a05\)](#)

[EXHIBIT\(tas64a06\)](#)

**Opponents' Testimony:**

00:52:56 Henry Ricklefts, Vice President, Manufactured Products, Plum Creek

[EXHIBIT\(tas64a07\)](#)

01:01:33 Joe Mazurek, D.A.Davidson

[EXHIBIT\(tas64a08\)](#)

01:05:16 Brian Pedersen, Managing Director, Alvarez and Marsal Tax, Seattle WA

[EXHIBIT\(tas64a09\)](#)

01:11:01 Kendall Merrick, Rimrock Mall, Billings

01:14:27 Dara Bernstein, National Association of Real Estate Investment Trusts (NAREIT)

[EXHIBIT\(tas64a10\)](#)

[EXHIBIT\(tas64a11\)](#)

[EXHIBIT\(tas64a12\)](#)

[EXHIBIT\(tas64a13\)](#)

01:22:10 Mark Staples, Chief Legal Counsel, National Association  
of Real Estate Investment Trusts (NAREIT)

01:25:50 Jon Bennion, Montana Chamber of Commerce

01:27:07 Charles Brooks, Billings Area Chamber of Commerce

01:29:09 Holly Franz, Montana Society of Certified Public  
Accountants (MSCPAs)

**EXHIBIT (tas64a14)**

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

01:31:49 Sen. Kelly Gebhardt to Mr. Ricklefts, Plum Creek

01:34:41 Sen. Jim Peterson to Ms. Bernstein, NAREIT

01:36:03 Sen. Jerry Black to Mr. Pedersen, Alvarez and Marsal  
Tax

01:37:29 Sen. Christine Kaufmann to Director Bucks, DOR

01:42:06 Sen. Robert Story to Director Bucks, DOR

01:46:18 Sen. Story to Mr. Ricklefts, Plum Creek, rereferred to  
Bill DeClerc, Tax Policy Manager, Plum Creek

01:47:50 Sen. Gebhardt to Director Bucks, DOR

01:52:33 Sen. Black to Mr. Ricklefts, Plum Creek

01:54:51 Sen. Story to Ms. Merrick, Rimrock Mall

01:56:55 Sen. Story to Mr. Staples, NAREIT

01:57:48 Sen. Black to Director Bucks, DOR

**Closing by Sponsor:**

02:00:08 Sen. Elliott

02:05:04 Break

02:17:34 Reconvene

**EXECUTIVE ACTION ON BILLS HELD IN COMMITTEE**

**Discussion:**

02:18:06 Sen. Elliott

**EXHIBIT**(tas64a15)

02:20:04 Sen. Gebhardt to Sen. Elliott

02:20:20 Sen. Peterson to Sen. Elliott

02:21:04 Sen. Kaufmann to Sen. Elliott

**EXECUTIVE ACTION ON SB 61**

02:22:11 **Motion/Vote:** SEN. STORY moved to RECONSIDER THE MOTION on SB 61. Motion carried unanimously by voice vote.

02:22:34 **Motion/Vote:** SEN. STORY moved that SB 61 BE TABLED. Motion carried unanimously by voice vote.

**EXECUTIVE ACTION ON SB 268**

02:22:47 **Motion:** SEN. STORY moved to RECONSIDER THE MOTION on SB 268.

02:23:50 SEN. STORY withdrew the RECONSIDER motion.

02:24:11 **Motion/Vote:** SEN. HARRINGTON moved that SB 268 BE TABLED. Motion carried 7-4 by voice vote with SEN. BLACK, SEN. PETERSON, and SEN. STORY voting no. SEN. ESSMANN voted no by proxy. SEN. GILLAN and SEN. SCHMIDT voted aye by proxy.

**EXECUTIVE ACTION ON HB 210**

02:25:00 **Motion/Vote:** SEN. ELLIOTT moved that SB 210 be signed out of Committee with a DO PASS AS AMENDED recommendation. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 400

- 02:27:12 **Motion/Vote:** SEN. KAUFMANN moved to RECONSIDER THE MOTION on SB 400 for purposes of amending. Motion carried unanimously by voice vote.
- 02:27:53 **Motion/Vote:** SEN. KAUFMANN moved to amend SB 400 with a CONCEPTUAL AMENDMENT . Motion carried unanimously by voice vote.
- 02:28:23 **Motion/Vote:** SEN. KAUFMANN moved that SB 400 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 552

- 02:29:29 **Motion/Vote:** SEN. ELLIOTT moved that SB 552 be signed out of Committee with a DO PASS AS AMENDED recommendation. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 356

- 02:30:51 **Motion:** SEN. STORY moved that SB 356 be passed out of Committee with a DO PASS AS AMENDED recommendation.

Discussion:

- 02:32:35 Sen. Peterson
- 02:32:45 **Vote:** Motion that SB 356 DO PASS AS AMENDED carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 375

Discussion:

- 02:33:44 Sen. Gebhardt to Sen. Elliott
- 02:34:11 Sen. Gebhardt
- 02:34:23 **Motion:** SEN. GEBHARDT moved to RECONSIDER THE MOTION on SB 375.

02:34:45 **Motion/Vote:** SEN. GEBHARDT moved to amend SB 375 with a CONCEPTUAL AMENDMENT. Motion passed unanimously by voice vote.

02:35:23 **Motion/Vote:** SEN. GEBHARDT moved that SB 375 DO PASS AS AMENDED. Motion carried unanimously by voice vote. SEN. GILLAN and SEN. ESSMANN voted aye by proxy. SEN. SCHMIDT was excused.

**EXECUTIVE ACTION ON SB 281**

02:36:23 **Motion/Vote:** SEN. ELLIOTT moved that SB 281 pass out of Committee with a DO PASS AS AMENDED recommendation. Motion carried unanimously by voice vote. SEN. ESSMANN, SEN. GILLAN, and SEN. SCHMIDT voted aye by proxy.

**EXECUTIVE ACTION ON SB 105**

**Discussion:**

02:36:49 Sen. Elliott

02:37:04 Sen. Greg Lind, SD 50

02:39:03 **Motion/Vote:** SEN. HARRINGTON moved to RECONSIDER THE MOTION on SB 105. Motion carried unanimously by voice vote.

**Discussion:**

02:39:21 Sen. Story

02:41:38 Sen. Peterson to Sen. Lind

02:42:34 Sen. Kaufmann to Sen. Lind

02:45:00 Sen. Elliott to Sen. Lind

02:45:51 Sen. Peterson to Sen. Elliott

02:47:43 Sen. Peterson to Sen. Lind

02:48:46 Sen. Peterson

02:49:21 Sen. Story

02:50:02 Sen. Elliott

02:50:29 Sen. Peterson to Sen. Lind

02:50:57 **SEN. HARRINGTON withdrew the reconsider motion. No further action was taken on SB 105.**

**Discussion:**

02:52:00 Sen. Story to Sen. Elliott

02:53:03 Sen. Kaufmann

02:53:42 Sen. Elliott

02:54:34 Sen. Story

02:55:21 Sen. Kaufmann

02:55:39 Sen. Story

**EXECUTIVE ACTION ON SB 436**

02:56:40 **Motion: SEN. GEBHARDT moved that SB 436 DO PASS.**

02:58:03 **Motion: SEN. GEBHARDT moved to amend SB 436 with amendment #SB043601.ALH.**

**EXHIBIT**(tas64a16)

**Discussion:**

02:58:34 Sen. Story

02:58:42 Sen. Gebhardt

03:02:01 Sen. Peterson to Sen. Gebhardt

03:04:16 Sen. Peterson

03:04:58 Sen. Gebhardt

03:05:16 Sen. Peterson

03:05:56 Sen. Gebhardt to Lee Heiman, Staff Attorney,  
Legislative Services Division (LSD)

03:08:52 **SEN. GEBHARDT withdrew the motion on amendment #SB043601.ALH and the DO PASS motion on SB 436. No further action was taken.**

**EXECUTIVE ACTION ON SB 559**

03:10:40 **Motion:** SEN. BLACK moved that SB 559 BE TABLED.

**Discussion:**

03:10:59 Sen. Kaufmann

03:12:29 Sen. Story

03:12:45 Sen. Kaufmann

03:13:13 Sen. Black

03:17:19 **Vote:** Motion that SB 559 BE TABLED carried 7-4 by roll call vote with SEN. KAUFMANN voting no. SEN. HARRINGTON, SEN. KITZENBERG, and SEN. SCHMIDT voted no by proxy. SEN. ESSMANN and SEN. GILLAN voted aye by proxy.

**General Discussion:**

03:17:46 Sen. Elliott

03:18:45 Sen. Gebhardt

03:19:26 Sen. Story

03:21:22 Sen. Gebhardt

**EXECUTIVE ACTION ON SB 550**

**Discussion:**

03:21:38 Mr. Heiman, LSD

03:22:10 Sen. Gebhardt to Mr. Heiman, LSD

03:23:34 **Motion:** SEN. GEBHARDT moved that SB 550 DO PASS.

03:23:50 **Motion:** SEN. GEBHARDT moved to amend SB 550 with amendment #SB055003.ALH.

**EXHIBIT**(tas64a17)



**Discussion:**

03:24:05 Sen. Gebhardt

03:24:27 Sen. Black to Mr. Heiman, LSD

03:24:51 Sen. Peterson

03:24:58 Sen. Gebhardt

03:25:23 Sen. Peterson

03:25:30 **Vote:** Motion that amendment #SB055003.ALH be approved carried unanimously by voice vote.

**Discussion:**

03:25:52 Mr. Heiman, LSD

03:27:06 **Motion/Vote:** SEN. GEBHARDT moved to further amend SB 550 with amendment #SB055001.ALH. Motion that amendment #SB05503.ALH be approved carried unanimously by voice vote.

**EXHIBIT** (tas64a18)

03:27:24 **Motion/Vote:** SEN. GEBHARDT moved that SB 550 DO PASS AS AMENDED. Motion carried unanimously by voice vote. SEN. ESSMANN, SEN. GEBHARDT, SEN. GILLAN, SEN. HARRINGTON, SEN. KITZENBERG and SEN. SCHMIDT voted aye by proxy.

**General Discussion:**

03:28:01 Sen. Peterson to Sen. Elliot

**ADJOURNMENT**

Adjournment: 11:30 P.M.

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SEN. JIM ELLIOTT, Chairman

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LOIS O'CONNOR, Secretary

JE/lo

Additional Exhibits:

**EXHIBIT ([tas64aad.pdf](#))**